

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-126-C - ORDER NO. 92-479✓
JUNE 19, 1992

IN RE: Application of Tel-Save, Inc.)
for a Certificate of Public)
Convenience and Necessity to) ORDER GRANTING
Operate as a Reseller of) CERTIFICATE
Intrastate Interexchange)
Telecommunications Service.)

This matter is before the Public Service Commission of South Carolina (the Commission) by way of an Application of Tel-Save, Inc. (Tel-Save) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services in the State of South Carolina. Tel-Save's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1991) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Tel-Save to publish a prepared Notice of Filing in newspapers of general circulation in the affected areas once a week for two consecutive weeks. The purpose of the Notice of Filing was to inform interested parties of Tel-Save's Application and the manner and time in which to file the appropriate pleadings for participation in the proceeding. Tel-Save complied with this instruction and provided the Commission with proof of publication of the Notice of

Filing. A Petition to Intervene was filed by Southern Bell Telephone & Telegraph Company (Southern Bell).

A hearing was commenced on Thursday, June 4, 1992, at 10:30 a.m. in the Offices of the Commission, 111 Doctors Circle, Columbia, South Carolina. The Honorable Henry G. Yonce presided. Julius McKay, Esquire, represented Tel-Save; Caroline N. Watson, Esquire, represented Southern Bell; and Gayle B. Nichols, Staff Counsel, represented the Commission Staff.

At the beginning of the hearing Southern Bell introduced a stipulation between itself and Tel-Save in which Tel-Save agreed that any grant of authority would be for interLATA services, that if any intraLATA calls were inadvertently completed, it would reimburse the local exchange company pursuant to the Commission Order in Docket No. 86-187-C, that all operator services would only be for interLATA calls and only "0+" or "0-" intraLATA calls would be handed off to the local exchange company, and that Tel-Save would not be prohibited from offering any services authorized for resale by tariffs of facility-based carriers approved by the Commission. Hearing Exhibit 1. After introduction of the stipulation, Southern Bell declined further participation in the hearing.

Tel-Save presented the testimony of Jackie O'Neal Cook, Jr. in support of its Application. Mr. Cook explained Tel-Save's request for certification to operate as a reseller of interexchange telecommunications services in South Carolina. He testified that Tel-Save does not plan to provide operator services. Mr. Cook

outlined Tel-Save's financial qualifications, background, and technical capabilities. Mr. Cook explained that public convenience and necessity required issuance of Tel-Save's requested certificate, particularly because it will provide small businesses the opportunity to purchase services which are typically only available to very large users. During the hearing, Tel-Save filed an amended tariff which deleted the word processing errors found in its original tariff. Counsel for Tel-Save indicated that the original tariff contained the appropriate rates and charges. Tel-Save agreed to delete the provision for advance payments from its tariff.

After full consideration of the applicable law and of the evidence presented by Tel-Save, Southern Bell, and the Commission Staff, the Commission hereby issues its findings of fact and conclusions of law.

FINDINGS OF FACT

1. Tel-Save is incorporated under the laws of the State of Pennsylvania and has a certificate of authority to transact business as a foreign corporation in the State of South Carolina.

2. Tel-Save operates as a reseller of long distance telecommunications. Presently, Tel-Save purchases AT&T's Software Defined Network service as part of its reseller operations. Tel-Save will rely on AT&T to provide all switching functions, billing information, and all originating and terminating transmission facilities in conjunction with local exchange company provided access service.

3. Tel-Save does not intend to provide any operator services. If a customer desires operator services, the customer will be directed to Tel-Save's underlying carrier's operators.

4. Tel-Save has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a certificate of public convenience and necessity should be granted to Tel-Save to provide intrastate, interLATA service through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Services, or any other services authorized for resale of tariffs of facility-based carriers approved by the Commission.

2. The Commission recognizes that Tel-Save does not intend to resell telecommunications for the purpose of making intrastate intraLATA calls. If Tel-Save incidentally or accidentally completes any intraLATA calls, the LEC shall be compensated by Tel-Save as ordered by the Commission in Order No. 86-793, issued August 5, 1986, in Docket No. 86-187-C.

3. The Commission adopts a rate design for Tel-Save which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate level has been previously adopted by the Commission. In Re: Application of GTE Sprint Communication Corporation etc., Order No. 84-622, issued in Docket

No. 84-10-C (August 2, 1984).

4. Tel-Save shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Tel-Save shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of Tel-Save's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1991).

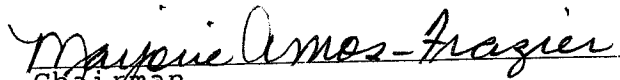
5. For the provision of intrastate telecommunications service Tel-Save may only use underlying facility-based carriers that are certified by this Commission to provide such service. Tel-Save shall notify the Commission in writing of its underlying carrier(s) and of any change in its carrier(s).

6. Tel-Save shall file its maximum rate tariff and an accompanying price list in a loose leaf binder to reflect the Commission's findings within thirty (30) days of its receipt of this Order. Tel-Save shall delete the provision regarding advance payments from its tariff.

7. Tel-Save is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

8. Tel-Save shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

IT IS SO ORDERED.


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER
DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.

* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT
PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).